

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 5552 of 2007(J)

PETITIONER:

AJIS BEN MATHEW, S/O. K.V.MATHEWS,
AGED 28 YEARS, FULL TIME RESEARCH SCHOLAR,
SCHOOL OF GANDHIAN THOUGHT AND DEVELOPMENT STUDIES
M.G.UNIVERSITY, KOTTAYAM, NOW RESIDING AT
LAHAPARAMBIL, EAST VAZHAPPILLY VILLAGE,
CHANGANASSERY.

BY ADV. SRI.MANOJ P.KUNJACHAN

RESPONDENTS:

1. THE DISTRICT SUPERINTENDENT OF POLICE,
KOTTAYAM.
2. THE SUB INSPECTOR OF POLICE,
KOTTAYAM WEST POLICE STATION, KOTTAYAM.

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX IN WPC NO.5552 OF 2007

PETITIONER'S EXHIBITS:

EXT.P1:- A TRUE COPY OF THE FIR IN CRIME NO.598/06 OF THE KOTTAYAM WEST
POLICE STATION.

EXT.P2:- A TRUE COPY OF THE REPRESENTATION ISSUED BY THE FIRST
RESPONDENT.

[TRUE COPY]

R.BASANT, J.

W.P.C.No.5552 of 2007

Dated this the 1st day of June 2007

O R D E R

The incident allegedly took place at 7.15 p.m on 21/11/2006 at Room No.1 of Akkara Lodge in Kottayam town. The petitioner was attacked using iron rod and nanchak chain. The petitioner suffered injuries. According to the petitioner this has been violence against him on account of students union political rivalry. A crime was registered interalia under Section 307 read with 149 I.P.C. The F.I.statement did not reveal the names of any accused persons. Accordingly, the crime registered does not show any named accused. Identifiable persons, eight in number, are the alleged accused persons. Investigation is in progress. So far the investigators have not been able to identify or trace the offenders. The petitioner, in these circumstances, laments that proper investigation has not been done. According to the petitioner, though he did not give the name of the accused persons before the doctor or before the officer who recorded the F.I.statement, two days later, he had informed the police about the involvement of two student union leaders of the rival union.

Police are not accepting the version. They are not arraying the said persons as accused. It is, in these circumstances that the petitioner has come before this court.

2. The learned Public Prosecutor submits that the fact that an incident had taken place at the relevant time and place is not disputed. The only dispute is about the identity of the miscreants. It is conceded that the present investigating officer - the Circle Inspector has not been able to identify the accused persons so far. The version of the petitioner about the involvement of two accused persons cannot be accepted without a pinch of salt as they have sufficient prior acquaintance and the explanation offered for not furnishing the names of the said persons to the doctor or in the F.I.statement is not satisfactory. However, it is conceded that the police have not been able to identify any of the miscreants so far.

3. The stand taken by the learned Public Prosecutor does also indirectly support the allegations of the petitioner that a proper and successful investigation has not been conducted. Sufficient time has been given to the present investigating officer - from 21/11/2006 till this day to complete the

investigation. The present incumbent has taken charge only two months earlier, it is submitted. Be that as it may, I am persuaded to agree that the facts and circumstances of this case indicate the necessity to get the investigation conducted by a senior police official of proven capability. Right to fair investigation is the right of every member of the polity. The petitioner's grievance is that because of the political connections and clout of the accused persons who belong to the student union of the ruling powers, no proper investigation is being conducted. I am satisfied that investigation can be directed to be conducted by an officer not below the rank of a Deputy Superintendent of Police to be identified and chosen by the Superintendent of Police, Kottayam. The Superintendent of Police shall pass appropriate orders within a period of thirty days and furnish copy to the petitioner. Such officer shall expeditiously complete the investigation.

Hand over copy of this order to the learned Public Prosecutor for communication to the Superintendent of Police.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

W.P.C.No.5552 of 2007

Dated this the 20th day of March 2007

O R D E R

The learned Public Prosecutor on instructions submits that proper investigation is being conducted and the incident and the suffering of injuries are not disputed. The incident had taken place on 21/11/2006 but till this date, the assailants have not even been identified. It is the case of the petitioner that the police is not taking proper action as the accused persons belonging to a student organisation having the blessing of the ruling party. The learned Public Prosecutor shall ensure that the statement is filed by the investigating officer before 12/04/2007 giving all the details of the investigation conducted and the details of the assailants, if any, identified by them.

Call on 13/04/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

W.P.C.No.5552 of 2007

Dated this the 20th day of March 2007

O R D E R

The learned Public Prosecutor on instructions submits that proper investigation is being conducted and the incident and the suffering of injuries are not disputed. The incident had taken place on 21/11/2006 but till this date, the assailants have not even been identified. It is the case of the petitioner that the police is not taking proper action as the accused persons belonging to a student organisation having the blessing of the ruling party. The learned Public Prosecutor shall ensure that the statement is filed by the investigating officer before 12/04/2007 giving all the details of the investigation conducted and the details of the assailants, if any, identified by them.

Call on 13/04/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006